

Message Text

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TO USDEL SECRETARY IMMEDIATE

C O N F I D E N T I A L STATE 103726 TOSEC 040219

EXDIS DISTRIBUTE AS NODIS

FOLLOWING TELEGRAM FROM USUN NEW YORK DATED APRIL 18, 1978
SENT USDEL SECRETARY, CAPETOWN, INFO SECSTATE WASHDC, PRETORIA
IS REPEATED TO YOU: QUOTE

C O N F I D E N T A I L USUN NEW YORK 01487

EXDIS HANDLE AS NODIS

FOR EMBASSY CAPE TOWN

FOR THE SECRETARY FROM MCHENRY, MOOSE, HANSEL AND HELMAN

E.O. 11652: GDS

TAGS: PDEV, SA, WA

SUBJECT: RECOMMENDATIONS FOR MEETING SAG CONCERN ABOUT
FINAL TROOP WITHDRAWAL

REF: SECTO 4095

1. IN CONSIDERING THE PROPOSED UK LANGUAGE WE RECALLED
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THE EXTENSIVE EARLIER DISCUSSION IN THE CONTACT GROUP. AT
THAT TIME, THE UK INSISTED THAT WE HANDLE THE TROOP WITH-
DRAWAL ISSUE BY MAKING AN ORAL STATEMENT TO THE SAG TO THE
EFFECT THAT SHOULD THE CONSTITUENT ASSEMBLY REQUEST THE SAG
TO MAINTAIN A TROOP PRESENCE IN NAMIBIA AFTER THE DATE FOR
THE FINAL WITHDRAWAL OF SAG TROOPS, THE CONTACT GROUP WOULD
SUPPORT THIS REQUEST. WE ARGUED THAT THE MOST THE CONTACT

GROUP SHOULD SAY IS THAT WE WOULD NOT OPPOSE SUCH A REQUEST. THE FRG REPRESENTATIVE HERE STATES THAT BONN IS PARTICULARLY CONCERNED TO HOLD THE LINE ON THIS POINT SINCE DURING HIS RECENT VISIT TO TANZANIA, GENSCHER WAS TOLD BY NYERERE THAT THE PROPOSAL WOULD BE UNACCEPTABLE IF SOUTH AFRICAN TROOPS WERE NOT DEFINITELY WITHDRAWN UPON CERTIFICATION OF THE ELECTIONS. IN THE OUTCOME, THE UK WITHDREW ITS PROPOSAL AND PUT FORWARD THE ALTERNATIVE FORMULATION ("THE CONSTITUENT ASSEMBLY MIGHT WISH TO EXPRESS ITS OPINION ON THIS MATTER") WHICH WAS ACCEPTED BY THE CONTACT GROUP AND USED WITH THE SAG. THE TENDENTIOUS INTERPRETATIONS OF THIS STATEMENT WHICH SUBSEQUENTLY APPEARED IN THE SOUTH AFRICAN PRESS DEMONSTRATED THE NEED TO HANDLE THIS ISSUE WITH EXTREME CAUTION, GIVEN ITS SENSITIVITY WITH SWAPO.

2. IN TRYING TO COME TO GRIPS WITH SUITABLE LANGUAGE ON THIS ISSUE, THE CONTACT GROUP ALSO HAD TO KEEP IN MIND SWAPO'S DESIRE TO CONVERT THE CONSTITUENT ASSEMBLY INTO A LEGISLATIVE BODY WHICH WOULD RENDER UNNECESSARY ANY FUTURE ELECTIONS TO CHOOSE A GOVERNMENT PRIOR TO INDEPENDENCE. IN SHORT, A CONSTITUENT ASSEMBLY WHICH FOR SOUTH AFRICA COULD REQUEST RETENTION OF SOUTH AFRICAN FORCES WOULD ALSO BE A CONSTITUENT ASSEMBLY WHICH FOR SWAPO COULD DECLARE INDEPENDENCE AND REQUEST THE UN TO WITHDRAW OR REQUEST THE WITHDRAWAL OF ALL SOUTH AFRICAN OFFICIALS. SUCH AN ASSEMBLY WOULD ALSO BE LESS INCLINED TO FACE THE NEED TO ACCOMMODATE

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THE VIEWS OF THE MINORITY. (DURING MCHENRY'S VISIT TO WINDHOEK, MUDGE OF DTA SPECIFICALLY REJECTED THE IDEA OF LEAVING SUCH AUTHORITY TO THE CONSTITUENT ASSEMBLY, ALTHOUGH HE, TOO, WAS CONCERNED ABOUT THE WITHDRAWAL OF SOUTH AFRICAN FORCES.) WE SOUGHT TO DEAL WITH THIS PROBLEM BY AVOIDING LANGUAGE WHICH SUGGESTS THAT THE DECISIONS OF THE CONSTITUENT ASSEMBLY CAN BE BINDING AS FAR AS THE UN'S RESPONSIBILITIES ARE CONCERNED.

3. NOTWITHSTANDING THESE CONSIDERATIONS ONE MIGHT CONSIDER REVISING GRAHAM AND STEELE LANGUAGE AS FOLLOWS (HOWEVER, AS NOTED IN PARA 7 BELOW, WE BELIEVE EVEN THIS REVISION IS A NON-STARTER FOR SEVERAL REASONS):

"THE FIVE GOVERNMENTS RECOGNIZE THAT ONCE THE CONSTITUENT ASSEMBLY, DULY ELECTED BY THE PEOPLE OF NAMIBIA ON THE BASIS OF THE CONTACT GROUP PROPOSAL AND IN CONFORMITY WITH RESOLUTION 385, HAS BEEN CONSTITUTED, IT WILL HAVE THE RIGHT TO EXPRESS ITS VIEWS, BY RESOLUTION OR IN ANY OTHER WAY, ON ALL ISSUES RELEVANT TO THE FUTURE OF NAMIBIA. THE FIVE POWERS WOULD TAKE SUCH VIEWS CAREFULLY INTO ACCOUNT AND WOULD EXPECT OTHERS TO DO THE SAME, WITH THE UNDERSTANDING THAT THIS WOULD NOT RESULT IN ANYTHING

WHICH WOULD PREJUDICE OR TEND TO PREJUDICE THE INTERNATIONAL STATUS OF THE TERRITORY IN ADVANCE OF INDEPENDENCE."

4. IN ADDITION TO THE CONSIDERATIONS LISTED IN PARA 1 ABOVE, THE ABOVE REVISION OF THE UK TEXT REFLECTS THE FOLLOWING THOUGHTS:

A. FIRST UK SENTENCE STRUCK US AS UNDULY APOLOGETIC REGARDING EFFORTS OF CONTACT GROUP AND THE PROPOSAL. WE HAVE ADDED THE REFERENCE TO THE PROPOSAL AND RESOLUTION 385 TO OUR REVISED VERSION OF SENTENCE TWO;

B. WE SUBSTITUTED THE WORDS "THE FUTURE OF NAMIBIA" FOR "PROPOSALS" AT THE END OF FIRST SENTENCE REFLECTING CONFIDENTIAL

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OUR VIEW THAT BY THE TIME THE CONSTITUENT ASSEMBLY MEETS THE PROPOSAL WILL BE WELL ALONG THE WAY TO IMPLEMENTATION AND THE CONSTITUENT ASSEMBLY'S FUNCTION WILL BE TO TAKE DECISIONS BEARING ON THE COUNTRY'S FUTURE.

C. WE HAVE REAL PROBLEMS WITH THE FORMULATION IN THE UK DRAFT OF THE THIRD SENTENCE THAT "SUCH VIEWS WOULD BE RESPECTED BY THE PARTIES TO THE AGREEMENT."

DEPARTMENT DOES NOT BELIEVE THAT FIVE POWERS CAN ALLOW CONSTITUENT ASSEMBLY'S RESOLUTIONS TO BE BINDING IN THIS FASHION; NOR CAN THEY MAKE SUCH AN UNDERTAKING FOR THE PARTIES, WHICH WE ASSUME TO BE SWAPO AND SAG, DIRECTLY, AND THE FRONT-LINE STATES, INDIRECTLY. OUR REVISED LANGUAGE IS AIMED AT AVOIDING THIS PROBLEM.

5. AS NOTED REFTEL, PROPOSED STATEMENT ON WITHDRAWAL ISSUE WOULD HAVE CERTAIN PARALLELS WITH THE PROPOSED STATEMENT ON WALVIS BAY, BUT ONLY AS REVISED IN PARAGRAPH 3 ABOVE. (OUR WALVIS BAY FORMULATION, WHICH THE UK DOES NOT NOW SUPPORT, MAKES NO COMMITMENT TO SWAPO ON THE OUTCOME OF NEGOTIATIONS, WHEREAS THE UK FORMULATION COMMITS US TO ABIDING BY THE VIEW OF THE CONSTITUENT ASSEMBLY.) IF SUCH A STATEMENT WERE TO BE USED WE SHOULD SEEK FIRST UK AND THEN CONTACT GROUP AGREEMENT TO USE THIS STATEMENT IN MANNER NOT UNLIKE WAY IN WHICH WE USED OUR WALVIS BAY STATEMENT, I.E., MAKING IT CONTINGENT UPON THE INTERESTED PARTY'S ACCEPTANCE. THIS COULD INVOLVE PRIVATE APPROACH TO SAG IN WHICH WE MIGHT NOTE THEIR CONCERNS ON THE QUESTION OF SOUTH AFRICAN TROOP WITHDRAWAL AND HAVE SOUGHT TO DEAL WITH THEM IN A POSITIVE MANNER. WE WOULD STATE THAT IN ORDER TO MAKE IT POSSIBLE FOR THE SAG TO ACCEPT THE CONTACT GROUP PROPOSAL, THE FIVE POWERS WOULD CONFIDENTIAL

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BE PREPARED TO MAKE THE ABOVE STATEMENT (PARA 3) IN THE SECURITY COUNCIL FOLLOWING THEIR ANNOUNCEMENT THAT THE PROPOSAL IS ACCEPTABLE.

6. LANGUAGE IN PROPOSED STATEMENT WOULD BE OPEN TO ARGUMENT THAT IT MODIFIES CG PROPOSAL IN THAT POWERS OF CONSTITUENT ASSEMBLY HAVE BEEN EXPANDED BEYOND DRAFTING OF CONSTITUTION TO PERMIT ASSEMBLY TO MODIFY OTHER ASPECTS OF CG PROPOSAL, NOT DEALING WITH SOUTH AFRICAN TROOP PRESENCE. PROCEDURES FOR PLACING STATEMENT (AND ANY OTHER CLARIFYING STATEMENT) ON RECORD WOULD BE NECESSARY. SINCE IT COULD BE ARGUED THAT STATEMENT IS AT VARIANCE WITH ASPECTS OF PROPOSAL ITSELF, STATEMENT WOULD HAVE TO BE PUT FORWARD IN MANNER THAT WOULD ALLOW IT TO BE READ AS HAVING STATUS SOMEWHAT ON A PAR TO PROPOSAL ITSELF. THIS MIGHT BEST BE DONE BY PUTTING STATEMENT ON RECORD BEFORE SC ADOPTS PROPOSAL AND BY ENSURING, AS BEST POSSIBLE, THAT NO COUNTER-STATEMENT IS MADE. PRIOR CONSULTATIONS WITH AND AGREEMENT OF ALL PARTIES ON MEANING OF STATEMENT WOULD BE IMPORTANT OR THE STATUS OF STATEMENT WOULD BE DIMINISHED AND MIGHT NOT MEET SA NEEDS.

7. BY AGREEING TO THE UK DRAFT WE WOULD GIVE THE CONSTITUENT ASSEMBLY THE SOVEREIGN POWERS OF A STATE, A ROLE WHICH THE CONTACT GROUP PROPOSAL NEVER INTENDED. ON THE OTHER HAND THE POSSIBLE REVISED LANGUAGE (PARA 3) WOULD HAVE NO BINDING EFFECT ON THE ADMINISTRATOR GENERAL AND THE SPECIAL REPRESENTATIVE AND WOULD NOT ALTER THE MANDATE GIVEN BY THE SECURITY COUNCIL. BOTH WOULD IMMEDIATELY PERCEIVE THIS AND WOULD FIND IT INADEQUATE, ALTHOUGH WE ALSO RECOGNIZE THAT HE MIGHT FIND SOME POLITICAL UTILITY IN THE AGREEMENT OF THE FIVE TO SUPPORT EXPRESSIONS OF THE CONSTITUENT ASSEMBLY. WHILE BOTH MIGHT FIND THE PROPOSED LANGUAGE MARGINALLY ACCEPTABLE AND THIS MIGHT BE DECISIVE IN SOUTH AFRICA'S DECISION, WE MUST WEIGH THESE POSSIBLE GAINS

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AGAINST THE ADDITIONAL CONCERNS WHICH WOULD SURELY ARISE AMONG THE AFRICANS SHOULD WE MAKE A CHANGE AT THIS STAGE. WE BELIEVE THE RISKS ARE SUBSTANTIAL. LEONARD UNQUOTE CHRISTOPHER

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